

BRANSTETTER, STRANCH & JENNINGS, PLLC

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ASSOCIATES:
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BEN GASTEL*
STACEY K. SKILLMAN **

OF COUNSEL:
ROBERT E. RICHARDSON, JR. ***

* ALSO ADMITTED IN GA
** ALSO ADMITTED IN KY
*** ONLY ADMITTED IN OH

September 25, 2013

VIA HAND DELIVERY and ELECTRONIC MAIL

Chris J. Tardio
Gideon Cooper & Essary
315 Deaderick St., Suite 1100
Nashville, Tennessee 37238

**Re: New England Compounding Center Litigation, MDL No. 2419
Complaints filed in United States District Court for the
Middle District of Tennessee**

Dear Chris:

Please be advised that we have filed the following complaints against your clients, St. Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, PC; John W. Culclasure; Debra Schamberg; Specialty Surgery Center, LLC and Dr. Kenneth R. Lister:

1. *Shirley Savercool v. Ameridose, LLC, et al.*, Case No.: 2:13-cv-0075
2. *Dale Willis v. Ameridose, LLC, et al.*, Case No.: 2:13-cv-0073
3. *Elizabeth Bray v. Ameridose, LLC, et al.*, Case No.: 2:13-cv-0072
4. *Danette Graham v. Ameridose, LLC, et al.*, Case No.: 2:13-cv-0074
5. *Judy Collins v. Ameridose, LLC, et al.*, Case No.: 2:13-cv-0074
6. *Robert M. Barnard v. Ameridose, LLC, et al.*, Case No.: 3:13-cv-01033
7. *Fredia Berry v. Ameridose, LLC, et al.*, Case No.: 3:13-cv-01032
8. *Terry L. Pierce v. Ameridose, LLC, et al.*, Case No.: 3:13-cv-01034

I am providing you a courtesy copy of each complaint. If you are willing to accept service on behalf of your clients, please let me know by September 27, 2013, close of business. Otherwise, we will begin normal service on your clients.

I write on behalf of the PSC formally requesting that you provide your clients' Rule 26 initial disclosures within 14 days of the date of this letter. We will agree that you will only need to do this once, instead of having to provide disclosures in each individual case.

Letter to Chris J. Tardio
September 25, 2013
Page 2

I am also asking that you provide me with available dates for depositions of Dr. John W. Culclasure, Debra Schamberg, Dr. Kenneth Lister and a 30(b) date for each of the entities that you represent. We believe that we can be ready to take these depositions in December.

I also understand (based on representations you have made in written correspondence) that your clients have segregated approximately 50,000 emails pertinent to the litigation as part of the discovery process in the state court, Wayne Reed case. Given that you have had these emails segregated for at least six months, we hope that you have completed your privilege review of these materials and that they are now ready for production. If not, then I would like to commence the meet and confer process on how and when you expect to commence production of this material.

Should you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,

JDS IV w/ permission by
J. GERARD STRANCH, IV
Member of PSC and Tennessee Chair

Enclosures as stated

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OF COUNSEL:
ROBERT E. RICHARDSON, JR. ***

* ALSO ADMITTED IN GA
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October 7, 2013

VIA U.S. and ELECTRONIC MAIL

Yvonne Puig (yvonne.puig@nortonrosefulbright.com)
Norton Rose Fulbright (Fulbright & Jaworski LLP)
98 San Jacinto Blvd., Suite 1100
Austin, TX 78701

**Re: New England Compounding Center Litigation, MDL No. 2419
Discovery Requests**

Dear Yvonne:

Please find enclosed the common discovery requests propounded upon your clients and service copies of discovery served upon other defendants. You may return written discovery responses and responsive documents to me. Further, and pursuant to Judge Saylor's order of June 21, 2013 (Dkt. No. 192) and the PSC's subsequently filed notice (Dkt. No. 224), copies of responsive documents should be produced to the appropriate vendors. Enclosed herewith is U.S. Legal's production specs that should be used in producing responsive documents to that vendor.

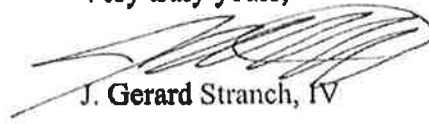
Additionally, at yesterday's status conference we discussed with your local counsel a meet and confer about your responses to complaints. We are happy to discuss any specific proposal you have in mind and we are available to talk today or tomorrow about this.

Finally, we are planning on reserving the subpoena on Mr. Kelvas. Please let us know if you will accept service on behalf and provide dates when you are available for that deposition.



Should you have any questions or comments, please let me know.

Very truly yours,



J. Gerard Stranch, IV

JGS IV/bmc

Enclosures as stated

cc: Kristen Johnson Parker
Parties Listed on Certificate of Service on the Enclosed Discovery Requests

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OF COUNSEL:
ROBERT E. RICHARDSON, JR.,***

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October 9, 2013

VIA HAND DELIVERY and ELECTRONIC MAIL

Chris J. Tardio
CJ Gideon
Matt Cline
Gideon Cooper & Essary
315 Deaderick St., Suite 1100
Nashville, Tennessee 37238

**Re: New England Compounding Center Litigation, MDL No. 2419
Complaints filed in United States District Court for the
Middle District of Tennessee**

Dear Gentlemen:

Please find enclosed the common discovery requests propounded upon your clients and service copies of discovery served upon other defendants. You can return written discovery responses and responsive documents to me. Further, and pursuant to Judge Saylor's Order of June 21, 2013 (Dkt. No. 192) and the PSC's subsequently filed notice (Dkt. No. 224), copies of responsive documents should be produced to the appropriate vendors. Enclosed herewith is U.S. Legal's production specs that should be used in producing responsive documents to that vendor.

I am also repeating my request that you provide me with available dates for depositions of Dr. John W. Culclasure, Debra Schamberg, and a 30(b)(6) date for each of the entities you represent. We believe that we can be ready to take these depositions in December.

Further, I am repeating my request that you provide an update on the approximately 50,000 emails you have previously segregated pertinent to this litigation as part of the discovery process in the Wayne Reed case, originally filed in state court.

Finally, we have not heard back from you with regards to our request for your initial disclosures. Please advise when we may expect them.



Letter to Chris J. Tardio
September 25, 2013
Page 2

Should you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



J. GERARD STRANCH, IV
Member of PSC and Tennessee Chair

Enclosures as stated

cc: **Kristen Johnson Parker**
Parties Listed on Certificate of Service on the Enclosed Discovery Requests

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OF COUNSEL:
ROBERT E. RICHARDSON, JR. ***

* ALSO ADMITTED IN GA
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October 16, 2013

Chris J. Tardio
C.J. Gideon
Matt Cline
Gideon Cooper & Essary
315 Deaderick Street, Suite 1100
Nashville, Tennessee 37238

Via Hand Delivery and Electronic Mail

**Re: *New England Compounding Center Litigation*, MDL No. 2419
Complaints filed in United States District Court for the
Middle District of Tennessee**

Dear Gentlemen:

Please find enclosed the common discovery requests propounded upon your clients. You can return written discovery responses and responsive documents to me. Further, and pursuant to Judge Saylor's Order of June 21, 2013 (Dkt. No. 192) and the PSC's subsequently filed Notice (Dkt. No. 224), copies of responsive documents should be produced to the appropriate vendors. Enclosed hereto is U.S. Legal's production specs that you should use in producing responsive documents to that vendor.

Also, as you know we have repeatedly requested that you provide your initial disclosures for Dr. Lister and Specialty Surgery Center, PLLC. Please let us know when we can expect those initial disclosures. Should you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



J. GERARD STRANCH, IV
Member of PSC and Tennessee Chair

Enclosures as Stated

cc: Kristen Johnson Parker
Parties Listed on Certificate of Service on the Enclosed Discovery Requests



USLS Preferred Production Specs for InControl

- 1) Single Page TIFF images
 - a. Black and White (300 DPI, Group IV Compression)
 - b. Color (300 DPI, JPEG Compression)
- 2) Include Natives for Excel documents; include TIFF placeholder with Bates stamp
- 3) OCR / Extracted text (multi-page text files)
- 4) De-duplicate globally across all custodians (Provide the name of the Custodians for where the duplicates were removed from in a field named DUP_Custodian)
- 5) Data should be processed utilizing Eastern Standard Time
- 6) Metadata in a DAT file using Concordance standard delimiters.
 - a. DAT file MUST be **fully** concordance delimited. All records must contain the "p" character and field separator "¶" for every entry.
 - b. DATE Fields (cannot contain zeros such as, 00/00/0000 or 11/00/2012 value)
 - c. Time Zone fields (cannot contain EST, GMT, EDT etc)
- 7) DAT should include the following fields:
 - DOCID
 - ENDDOC#
 - BEGATTCH
 - ENDATTCH
 - PARENTID
 - ATTCHIDS
 - PGCOUNT
 - FROM
 - TO
 - CC
 - BCC
 - SUBJECT_OTHER (Email Subject)
 - SENTDATE
 - SENTTIME
 - AUTHOR (Document Author)
 - DOCTITLE
 - DATECRTD (Date Created)



USLS Preferred Production Specs for InControl

- DATESVD (Date Last Modified)
- DATELACC (Date Last Accessed)
- CUSTODIAN
- FILENAME
- FILEPATH (Original Filepath)
- FILEEXT (File Extension)
- DUP_Custodian (Custodian names for where the duplicates were removed from)
- FAMILYID (An ID that is unique to the entire family group (e-mail & attachments))
- THREADID
- MD5HASH
- MESSAGE_ID
- THREAD_IN_REPLY_TO
- THREAD_REFERENCES
- NATIVEPATH (a native or text file must be present for searching)

8) Concordance OPT image load file

9) Control List for the Fulltext (DOCID, PATH TO MULTIPAGE TXT FILE) - for example:
A0000001, \FULLTEXT\001\A0000001.TXT

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ASSOCIATES:
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STACEY K. SKILLMAN **

OF COUNSEL:
ROBERT E. RICHARDSON, JR. ***

November 11, 2013

* ALSO ADMITTED IN GA
** ALSO ADMITTED IN KY
*** ONLY ADMITTED IN OH

VIA UNITED STATES and ELECTRONIC MAIL

Chris Tardio
Gideon Cooper & Essary
315 Deaderick St., Suite 1100
Nashville, Tennessee 37238

**Re: New England Compounding Center Litigation, MDL No. 2419
Complaints filed in United States District Court for the
Middle District of Tennessee**

Dear Chris:

As you know we served discovery in the above-identified matter on behalf of the Plaintiffs' Steering Committee ("PSC") on October 9, 2013. Since then the parties have exchanged letters and had two in-person meet and confer sessions regarding the scope of discovery. This letter is meant to address three major points that have arisen during these discussions.

You have requested the PSC identify the differences in the recent discovery served and the discovery served in the Wayne Reed case. After initially reviewing these differences, we realized that the discovery we recently served took into consideration many of the issues brought up in the meet and confer process in state court, and accordingly, the easiest way forward is for you to simply answer all discovery responses posed on October 9, 2013, regardless of whether a given request is the exact same request served in the state court litigation.

Next, you have requested that the PSC provide a list of information technology questions to aid a discussion on electronic discovery issues. First, as it relates to the quarantined emails from Saint Thomas Outpatient Neurosurgical Center/Howell Allen, the PSC has determined that given the size of the litigation and the fact that only 50,000 non-de-duplicated emails have been quarantined, a search protocol for these emails is unnecessary. We suggest that you de-dupe these emails, review all of them, and produce those that are responsive and non-privileged. To the extent that you withhold an otherwise producible email on the basis of privilege, please produce a privilege log to allow us to properly assess your claim of privilege. As you are well aware, document processors like DSI, Inc. are readily available to help with the de-duping process.

Letter to CJ Gideon
November 11, 2013
Page 2

With respect to the searching of other computer systems, here is the information we need:

1. The number of custodians that received a litigation-hold letter;
2. The number of computer document repositories subject to the litigation-hold letter;
3. The type of document management system maintained by each custodian (if any);
4. The type of server on which the document management system is maintained;
5. The type of server on which emails are maintained (if different from no. 3);
6. The operating system in use for each personal computer subject to the litigation hold letter;
7. The time you anticipate it would take to search an individual custodian's personal computer;
8. The capacity for each computer/server to be boolean searched.

With regard to searching these electronic discovery repositories, we suggest searching all hard drives and servers with the following terms:

Compound*	McClendon
"health alert network"	Medication
"shut-down"	Meningitis
.gov	Methylprednisolone
"Department of health"	MPA
"New England"	NECC
"Patient list"	Notarianni
Adverse	Notif*
advertise*	Outbreak
Beckham	Dickerson
BUD	Pharm*
Cadden	Price
Candace Smith	Pricing
CDC	Budget
Clint	procure*
Cluster	public health
Contamin*	Quality
death	Recall*
depo-medrol	Rudolph
DeZwaan	Safety
Dose	Shortage
Epidural	Steril*
Expense	Steroid
FASCA	Supplier

Letter to CJ Gideon
November 11, 2013
Page 3

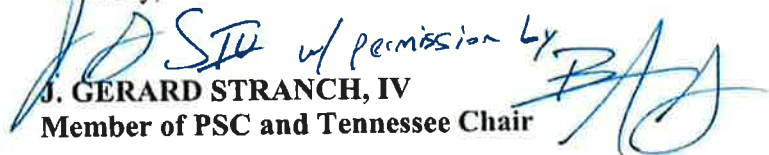
FDA
Fungal
Giamei
guideline
headache
Investigat*
Joint Commission
Kainer
Generic
TEVA
Framingham
Woburn
Boston
Single-dose
betamethasone
Kinkel
Latham
Manufacturer
Massachusetts
Pharmacy-mixed
Scham*
Close*
Board

symptom*
Vial
Sandoz
Pfizer
Preservative
Profit
CuraScript
Multi-dose
Rachel Rome
Dexamethasone
New England
MSM
Conig*
Fung*
Mening*
Depo*
Metha*
Cont* w/3 lot
USP
Culc*
80mg
Bulk

Please let us know the answers to the above questions and depending on those responses we may need to revise these search terms.

Finally, with regard to an extension on your written discovery, we agree to extend your time to respond to that discovery until November 25, 2013. Given that the discovery we served is substantially similar to the work you have already done in state court litigation, it seems this is more than reasonable. Further, we are happy to discuss a rolling production of documents given the further searching that needs to take place.

Sincerely,

 w/ permission by
J. GERARD STRANCH, IV
Member of PSC and Tennessee Chair

cc: Kristen Johnson Parker

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MICHAEL J. WALL

December 20, 2013

Chris J. Tardio
C.J. Gideon
Matt Cline
Gideon Cooper & Essary
315 Deaderick Street, Suite 1100
Nashville, Tennessee 37238

Via Electronic Mail

**Re: New England Compounding Center Litigation, MDL No. 2419
Complaints filed in United States District Court for the
Middle District of Tennessee**

Dear Gentlemen:

This letter is in response to your correspondence from December 12, 2013 and December 18, 2013.

In your December 18 letter, you mistakenly claim that I mislead the court as to the status of your production. My statement to the Court that you have not produced a single document in response to discovery in this case was completely true. You have not produced those documents. I have asked you to do so multiple times so that there is no dispute as to the authenticity of the documents, and so that they are "produced" in this litigation. You have refused to do, just as you have refused to respond to any discovery.

We view you to be in contempt for failing to meet the production deadline from the subpoenas issued to your clients.

Judge Boal's subpoena order compelled you to respond to the subpoenas, and you refused to do so on the absurd grounds that you are not required to respond twice to discovery propounded on you. This may be true enough, but you are clearly required to respond *at least once*. You have not done so. We will be filing a motion for contempt and to compel with the Court next week unless we get your commitment to respond to the subpoenas and the non-duplicative discovery requests immediately.

Letter to Gideon, Cooper & Essary
October 16, 2013
Page 2

Sincerely,

J. Gerard Stranch, IV w/ permission by

J. GERARD STRANCH, IV
Member of PSC and Tennessee Chair

A large, stylized handwritten signature in black ink, appearing to be 'J. Gerard Stranch, IV', written over the typed name.

GS/bmc